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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

CIVIL AND POLITICAL RIGHTS

PROMOTION AND PROTECTION OF HUMAN RIGHTS: HUMAN RIGHTS DEFENDERS

Written statement*/ submitted by the Lawyers Committee for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 January 2000]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

The situation of human rights in Northern Ireland

1. In April 1998 the Good Friday Agreement was signed, providing a framework for establishing peace and enabling the return to a normal society in Northern Ireland. The Agreement places a premium on human rights, establishing a Human Rights Commission, an Independent Commission on Policing for Northern Ireland and a Criminal Justice System Review. In addition, the Good Friday Agreement calls for the removal of emergency powers: "The British Government will make progress towards the objective of as early a return as possible to normal security arrangements in Northern Ireland, consistent with the level of threat and with a published overall strategy, dealing with: ... (iii) the removal of emergency powers in Northern Ireland." (*The Good Friday Agreement*, April 1998, section Security, paragraph 3; http://www.nio.gov.uk/agr_links.htm).

2. Pursuant to the Good Friday Agreement, an Independent Commission on Policing for Northern Ireland, chaired by Chris Patten, was established in June, 1998 to address police reform. The Patten Commission published its report on September 9, 1999 making 175 recommendations for future policing in Northern Ireland (*A New Beginning: Policing in Northern Ireland*, Sept. 1999; http://www.belfast.org.uk/report.htm). In general, the Report is a positive and constructive contribution. It emphasizes the need for police accountability and a human rights-based approach to policing. It makes a number of substantive suggestions related to force reduction, diversity recruitment strategies, civil oversight of police operations, community policing and human rights training of officers.

3. The Lawyers Committee believes that the transformation of the Royal Ulster Constabulary (RUC), Northern Ireland's police force, is fundamental to the success of the peace process. (*Submission to the Commission on Policing for Northern Ireland*, Lawyers Committee for Human Rights, July, 1999; http://www.lchr.org/n.ireland/policing.htm). The Lawyers Committee urged the Commission to consider ways for the police force to develop a culture of professionalism, inclusion and accountability. It recommended steps to strengthen disciplinary measures for officers who abuse civilians, end the use of plastic bullets, repeal emergency laws, and improve recruitment practices to diversify the police force.

4. On January 19, 2000, the Rt. Hon. Peter Mandelson MP, Secretary of State for Northern Ireland, announced the Government's decision to implement virtually every major recommendation in the Patten Report. (*Statement of Decisions on the Patten Report*, 19 January 2000; http://www.britainusa.com/bis/nireland/19jan00.htm). The Lawyers Committee welcomes Mr. Mandelson's announcement and supports the Government's initiative to implement the Patten Commission's recommendations. We urge the UK Government to draft appropriate legislation, provide adequate funding, and appoint an experienced and credible oversight commissioner as soon as possible. All these measures will help determine the success of implementing the Patten recommendations.

5. The Lawyers Committee is concerned, however, that the Secretary of State did not satisfactorily address issues such as the need to repeal emergency legislation, strengthen accountability for policing and deal with allegations of past abuse by the RUC. There is a pressing need to address past violations, and since the Patten Report is "forward-looking" it does not offer specific guidance on how to break the existing cycle of impunity. Confronting a legacy of past abuse is necessary for building a strong foundation for the rule of law, the primary mechanism for ensuring Northern Ireland's compliance with its human rights obligations.

6. The Lawyers Committee continues to press for an independent inquiry into the murder of Patrick Finucane, the Belfast lawyer who was killed on February 12, 1989. Prior to his death, Mr. Finucane received death threats from members of the police which were communicated through his clients. His unresolved murder continues to have a chilling effect on other defense lawyers. On April 12, 1999, Dato' Param Cumaraswamy, Special Rapporteur on the Independence of Judges and Lawyers, reiterated his call for an independent inquiry into the circumstances of the Finucane murder, especially since "[f]rom the materials seen by the Special Rapporteur, there is at least *prima facie* evidence of such [State] collusion." (E/CN.4/1999/60).

7. In March, 1999, RUC Chief Constable Ronnie Flanagan appointed London Detective John Stevens to investigate the Finucane murder. This is Mr. Stevens' third investigation relating to the Finucane case. In June, 1999, William Stobie was arrested and charged with the murder. On October 5, 1999, Mr. Stobie was released on bail. During his bail hearing, Mr. Stobie revealed that he had been an RUC police informer at the time of the murder. At the hearing, his lawyer also revealed that in 1990 Mr. Stobie was interviewed for more than 40 hours by members of the RUC Special Branch. These interviews, which included Stobie's confession to the murder, were transcribed and have been available to the authorities since 1990. Among other things, these notes identify the names of the members of the RUC special branch who he had warned about the murder. Charges against Mr. Stobie are still pending.

8. Recent news reports indicate that on January 23, 2000, Mr. Stevens identified six members of the paramilitary Ulster Defence Association suspected of the murder of Mr. Finucane, and have sent the files to the Director of Public Prosecutions(DPP). According to the press reports, Mr. Stevens does not expect to submit a report about official collusion in this case to the UK Government until 2001, an undue delay.

9. On March 15, 1999, Rosemary Nelson, another Northern Ireland defense lawyer, was killed by a car bomb. Like Finucane, prior to her murder Mrs. Nelson received numerous death threats, some of them from the police communicated through her clients. On April 12, 1999, Mr. Cumaraswamy expressed his "lack of confidence in the RUC investigation mechanism" in connection with the Independent Commission for Police Complaints (ICPC) report regarding formal complaints she had made. In January, 2000, the DPP declined to prosecute the RUC officers accused of threatening Rosemary Nelson. The DPP said that it lacked

sufficient evidence to initiate criminal proceedings. Prior to her murder, Ms. Nelson was denied official protection despite repeated requests and clear evidence that her safety was at risk (Lawyers Committee, Action Update Rosemary Nelson (Dec. 1999)(http://www.lchr.org/121/nelson1299.htm)).

10. On March 30, 1999 RUC Chief Constable Ronnie Flanagan announced the appointment of Mr. Colin Port, the Deputy Chief Constable of the Norfolk Constabulary in England, as Officer in Overall Command of the Nelson murder investigation. This investigation in Northern Ireland is based in the Lurgen RUC station and relies on the cooperation of RUC officers. As of this date, no one has been arrested in connection with Ms. Nelson's murder. On December 10, 1999, the Lawyers Committee joined other human rights organizations calling for an independent inquiry into the Nelson murder (http://www.lchr.org/n.ireland/nijoint.htm).

11. The Lawyers Committee also reiterates its deep concern with the continuing intimidation and harassment of other defense lawyers in Northern Ireland. During a mission to Northern Ireland in November 1999, the Lawyers Committee learned that other defense lawyers continue to receive threats linked to their representing clients in security-related cases. We share Mr. Cumaraswamy's conclusion that the murders of Mr. Finucane and Ms. Nelson have "had a chilling effect on the independence of defense lawyers and other human rights defenders in Northern Ireland." (Press Release HR/CN/908, 13 April 1999). The future credibility of the police in Northern Ireland depends upon a full and thorough investigation in both the Finucane and Nelson cases, public disclosure of the results, and accountability for those responsible.

12. The Lawyers Committee welcomes the naming of a new Police Ombudsman Ms. Nuala O'Loan and hopes that she has the power to independently investigate all complaints against the police including those in connection with the Finucane and Nelson cases. The Lawyers Committee also welcomes the creation of the new Northern Ireland Human Rights Commission, chaired by Mr. Brice Dickson. We are concerned, however, that neither entity has been given sufficient funds to effectively carry out its respective mandate (3 million pounds annually for the Ombudsman's office and 750,000 pounds annually for the Commission). Furthermore, we are concerned that the Human Rights Commission continues to lack adequate subpoena power or access to relevant DPP files.

13. The Lawyers Committee also reiterates its call on U.K. authorities to repeal emergency laws. The peace process initiated by the Good Friday Agreement minimizes all threats "to the life of the nation" and the United Kingdom is no longer justified in its derogation from article 9(3) of the International Covenant on Civil and Political Rights. As the Lawyers Committee noted in our submission to the 55th Session of this Commission, "the maintenance of emergency legislation inevitably will continue to create conditions leading to [human rights]

violations. Effective safeguards at pre-trial and trial stages help to prevent circumstances of torture and other cruel treatment. Such due process rights continue to be abrogated under the current emergency legislation regime in Northern Ireland." (E/CN.4/1999/NGO/66 4 March 1999, para. 3).

14. Finally, the Lawyers Committee welcomes the closing of the Castlereagh detention center as well as the introduction of video and audio equipment in the remaining interrogation centers. However, the continued use of "Diplock Courts" and special arrest and detention powers undermines the process of building confidence in the legal order in Northern Ireland and preventing human rights violations.